



**MINUTES OF A REGULAR MEETING OF THE
UPLAND PLANNING COMMISSION HELD
WEDNESDAY, SEPTEMBER 23, 2020
AT 6:30 P.M.**

CALL TO ORDER OF THE PLANNING COMMISSION REGULAR MEETING

Chair Aspinall called the Regular Meeting of the Upland Planning Commission to order in the Council Chambers of the Upland City Hall at 6:30 P.M.

PLEDGE OF ALLEGIANCE

The pledge of allegiance was led by *Commissioner Mayer*.

ROLL CALL

MEMBERS PRESENT: Chair Aspinall, Vice Chair Schwary, Commissioners Anderson, Caldwell, Grahn, Mayer, and Shim.

MEMBERS ABSENT: None.

ALSO PRESENT: Development Services Director and Planning Commission Secretary Dalquest, Contract Planning Manager Poland, Associate Planner Winter, Assistant Planner Hong, Deputy City Attorney Shah, Senior Administrative Assistant Davidson.

APPROVAL/MINUTES

Moved by *Vice Chair Schwary*, to approve the minutes of Planning Commission Special meeting of August 12, 2020, as amended.

The motion was seconded by *Commissioner Anderson*.

The motion carried by the following vote (7-0):

AYES: Chair Aspinall, Vice Chair Schwary, Commissioners Anderson, Caldwell, Grahn, Mayer, and Shim.

NAYS: None ABSTAINED: None

ABSENT: None

COUNCIL ACTIONS

Development Services Director Dalquest provided a brief follow up on the September 14th City Council Meeting, reporting two (2) second readings, the Wireless Telecommunications Ordinance and the Short Term Rental Ordinance, both of which were previously recommended for approval by the Planning Commission, and the City Council approved a Park Development Impact Credit Agreement for the Sage Park Project on Bodenhammer Street, south of 9th Street.

Development Services Director Dalquest reported staff presented a project to develop an urban space south of Mitchell's Plumbing owned by the San Bernardino County Transportation Authority (SBCTA) which will create a space that will include a rock entry feature on both ends and a small stage. The site will serve as a quasi-trailhead, and will have landscaping, covered structures, and a restroom for those using the trail. Council approved hiring a Landscape Architect to do preliminary design work for their approval. He reported a previously approved Streetscape Beautification Plan was in progress for downtown which will include new street signs and pop-up bollards to close the crosswalk between 2nd Avenue and 9th Street for events.

**MINUTES OF A REGULAR MEETING OF THE
UPLAND PLANNING COMMISSION**

SEPTEMBER 23, 2020

Chair Aspinall inquired whether the park project would come before the Planning Commission. *Development Services Director Dalquest* advised the park project was slated to be considered before the Public Works Committee but will have it reassigned to the Planning Commission for review before going to the City Council.

FUTURE AGENDA ITEMS

Contract Planning Manager Poland reported there are no future agenda items for October.

ORAL COMMUNICATIONS

Chair Aspinall opened oral communications and seeing no speakers, closed oral communications.

PUBLIC HEARINGS

Moved by *Chair Aspinall*, to reorder Public Hearing Items with Public Hearing C being first, followed by Public Hearing A, Public Hearing D, Public Hearing E and ending with Public Hearing B.

The motion was seconded by *Vice Chair Schwary*.

The motion carried by the following vote (7-0):

AYES: Chair Aspinall, Vice Chair Schwary, Commissioners Anderson, Caldwell, Grahn, Mayer, and Shim.

NAYS: None ABSTAINED: None

ABSENT: None

C. PUBLIC HEARING FOR LOCAL REGISTER NO. 20-0001.

Project Description: Request to designate 843 N. 2nd Avenue to the Local Register of historic places. The property is located within the Residential Single-Family Medium (RS-7.5) General Plan Designation and the Residential Single-Family Medium (RS-7.5) Zoning District.

Project Location: Property is located at 843 N. 2nd Avenue, further described as Assessor's Parcel Number 1046-061-16.

Staff:	Jacqueline Hong, Assistant Planner
Applicant:	Jeffrey and Kellene Johnson 843 N. 2nd Avenue Upland, CA 91784
Recommendation:	That the Planning Commission: <ol style="list-style-type: none">1. Receive staff's presentation; and2. Open public hearing and receive testimony from the public; and3. Close public hearing and have Commission discussion; and4. Find that the project is Categorically Exempt from further environmental proceedings pursuant to Article 5, Section 15061(b)(3). The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment; and5. Move to adopt a Resolution approving Local Register No. 20-0001, based upon the findings and subject to conditions of approval as set forth in the Resolution dated September 23, 2020.
Council Hearing Required:	The Planning Commission's decision is final unless the request is appealed to the City Council. UMC Section 17.47.040.
Appeal Period:	September 24, 2020 – October 5, 2020.

**MINUTES OF A REGULAR MEETING OF THE
UPLAND PLANNING COMMISSION**

SEPTEMBER 23, 2020

Assistant Planner Hong provided a presentation on the details of the report, including request, proposal, application, location, building history, architecture style and historical elements, Upland Municipal Code Section 17.26.100(f), The Mills Act, CEQA exemptions, and staff recommendations.

Commissioner Grahn inquired as to whether the designation applies to the entire property including the garage. *Assistant Planner Hong* confirmed the designation applies to the entire property.

Chair Aspinall inquired as to the history and why this request is just now coming before the Planning Commission. *Assistant Planner Hong* reported in 2000 the Planning Commission determined the property could not be placed on the Local Register since it was not surveyed in the 1989 – 1990 National Survey. She reported Upland Heritage completed a survey in August which makes the property eligible for the Local Register. She also reported if the property is sold, the designation would stay with the new property owner. She explained that when property owners who are on the Local Register want to make improvements to the property, they must apply for a Certificate of Appropriateness with Upland Heritage and the City Planning Division to ensure the changes to the exterior are compatible and preserve the historic architectural style.

Chair Aspinall inquired whether the designation becomes a real estate disclosure to potential new owners. To which, *Assistant Planner Hong* indicated being unsure whether the designation becomes a disclosure but mentioned the information is made publically available on the City's website. Additionally, residents can be provided with the primary records when it is surveyed by Upland Heritage and subsequent evaluation.

Vice Chair Schwary inquired about the conditions and change of ownership. *Assistant Planner Hong* confirmed any conditions associated with the property being on the Register as well as the Mills Act would transfer to the new owners. She explained the property stays on the Register regardless if there is an architecture change until the owner goes through the process of removal within the Upland Municipal Code. She further explained if the new owner applies for the Mills Act it will be transferred to the new property owner and the contract continues.

Commissioner Shim inquired as to how many residential properties have the same designation within the City. *Associate Planner Winter* reported there are approximately 1,000 Upland properties that also have Local Register designation.

Chair Aspinall opened the public hearing.

Jeffrey Johnson, applicant, thanked *Commissioner Mayer* for visiting the property in person. He reported he purchased the home approximately six-years ago and was advised it was eligible for the Mills Act as a historic home. He advised the original property owners were from Iowa and noted it as a one-of-a-kind property. He explained they have completely restored the home and only recently found out they were not listed in the Local Register. He encouraged the Planning Commission to approve the application.

Noting there were no others wishing to address the Planning Commission either in person or via telephone, *Chair Aspinall* closed the public hearing.

Vice Chair Schwary commented on the pristine condition of the property and commended *Mr. and Mrs. Johnson* for their restoration.

Commissioner Caldwell expressed support for approval.

Commissioner Mayer reported he visited the property and received a tour from *Mr. and Mrs. Johnson*. He commended them for great pride of ownership and believes the designation will only lead to further improvement of the property.

Moved by *Vice Chair Schwary* to find the project is Categorically Exempt from the further environmental proceedings pursuant to Article 5, Section 15061(b)(3), the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment; and moved to adopt a Resolution approving Local Register No. 20-0001, based upon the findings and subject to conditions of approval as set forth in the Resolution dated September 23, 2020.

The motion was seconded by *Commissioner Mayer*.

**MINUTES OF A REGULAR MEETING OF THE
UPLAND PLANNING COMMISSION**

SEPTEMBER 23, 2020

The motion carried by the following vote (7-0):

AYES: Chair Aspinall, Vice Chair Schwary, Commissioners Anderson, Caldwell, Grahn, Mayer, and Shim.

NAYS: None ABSTAINED: None

ABSENT: None

Chair Aspinall noted the Planning Commission's decision is final unless request is appealed to the City Council during the appeal period from September 24th to October 5th, 2020.

**A. PUBLIC HEARING FOR CONDITIONAL USE PERMIT NO. 19-07.
(Continued from August 12, 2020)**

Project Description: Request to allow a daycare/pre-school facility within a 5,040 square foot tenant space in an existing shopping center. The property is located within the Commercial/Office Mixed-Use (C/O-MU) General Plan Designation and the Commercial/Office Mixed-Use (C/O-MU) Zoning District.

Note: This Public Hearing item was continued by the Planning Commission from their Special Meeting on August 12, 2020 to their Regular Meeting on October 28, 2020 to allow the Applicant additional time to address the Planning Commission's concerns related to the site plan. Recently the Applicant has requested that the Public Hearing be moved to September 23, 2020. Therefore, Staff has re-noticed the Public Hearing in accordance with Upland Municipal Code Section 17.46.

Project Location: Property is located at 710 E. Foothill Boulevard, further described as Assessor's Parcel Number 1046-101-08.

Staff:	Joshua Winter, Associate Planner
Applicant:	Wei Zhao 4996 Aldine Street Montclair, CA 91763
Recommendation:	That the Planning Commission: 1. Receive staff's presentation; and 2. Open public hearing and receive testimony from the public; and 3. Close public hearing and have Commission discussion; and 4. Find that this project is Categorically Exempt from environmental proceedings pursuant to Article 19, Section 15301, Existing Facilities, Class 1 (a), of the California Environmental Quality Act Guidelines, since the proposed project consists of a negligible change in use within an existing structure; and 5. Move to adopt a Resolution for approval of Conditional Use Permit No. 19-07, based upon the findings and subject to conditions of approval as set forth in the Resolution dated September 23, 2020.
Council Hearing Required:	The Planning Commission's decision is final unless the request is appealed to the City Council. UMC Section 17.47.040.
Appeal Period:	September 24, 2020 – October 5, 2020.

Associate Planner Winter provided a presentation on the details of the report, including a summary from the August 12th meeting and a recap of the request, proposal, application, location, building history, project layout, site plan, architecture style and elements, floor plan options, landscaping and open space areas, State of California Title 22 and Health and Safety Code 3.5 regulations and requirements, CEQA exemptions, and staff recommendations.

**MINUTES OF A REGULAR MEETING OF THE
UPLAND PLANNING COMMISSION**

SEPTEMBER 23, 2020

Associate Planner Winter reported one of the primary concerns of the Planning Commission was the location of the front door and the proximity to the main drive aisle and Campus Avenue, for children exiting the facility during drop-off and pick-up. He reported the Applicant adjusted the plan to place the primary entry on the east side of the building as indicated by the Planning Commission and moved the outdoor playground further south. He reported the playground expanded by about 800 square feet and will now be able to accommodate approximately 50 children as opposed to 42 previously identified. He advised a child crossing fence will be placed next to the entry into the parking lot along with additional striping and raised paved reflectors. Lastly, he advised a small fence with a gate will be added to accommodate for Americans with Disabilities Act (ADA) accessibility.

Commissioner Anderson inquired how the striping and the release of children in the parking lot is being addressed. *Associate Planner Winter* reported whenever children are dropped off or picked up, a guardian must accompany the child and walk them to and from the facility. The striping raised pavement and markers will identify the drop-off/pick-up area. He reported fifteen parking spots were lost to the building redesign but adequate parking still remains for the shopping center.

Commissioner Caldwell inquired whether employee parking would be further from the entrance. *Associate Planner Winter* reported employee parking in an adjacent lot was not further discussed with the Applicant but they are open to consideration.

Commissioner Shim inquired about speed bumps, to which *Associate Planner Winter* replied he was unsure whether speed bumps were part of the site plan and would pause to research.

Vice Chair Schwary requested clarification regarding the entrance. *Associate Planner Winter* reported the entrance was located on the east side of the building towards the northeast corner and the entire area is fenced.

Chair Aspinall opened the public hearing.

Zoe Chen, spoke on behalf of the applicant, *Wei Zhao*. She believes there are speed bumps on the property and the landlord is willing to add more if required.

Chair Aspinall followed up on whether the employees could park further from the entrance. *Ms. Chen* indicated the applicant was open to asking employees to park in an adjacent parking lot.

Commissioner Caldwell inquired whether the applicant would be willing to add a condition to the resolution which required employees to park in a different area in order to avoid conflict with the parent's dropping-off/picking-up their children from the facility. *Ms. Chen* agreed to add and comply with this condition.

Noting there were no others wishing to address the Planning Commission either in person or via telephone, *Chair Aspinall* closed the public hearing.

Moved by *Vice Chair Schwary* to find the project is Categorically Exempt from the further environmental proceedings pursuant to Article 19, Section 15301, Existing Facilities, Class 1 (a) of the California Environmental Quality Act Guidelines, since the proposed project consists of a negligible change in use within an existing structure; and moves to adopt a Resolution for approval of Conditional Use Permit No. 19-07, based upon the findings and subject to conditions of approval as set forth in the Resolution dated September 23, 2020 as amended to include staff recommendations, and the applicant will make every effort to make sure that all employees of the of the Fairytale Castle School park away from the project and not in the immediate areas surrounding the school.

The motion was seconded by *Commissioner Caldwell*.

The motion carried by the following vote (7-0):

AYES: Chair Aspinall, Vice Chair Schwary, Commissioners Anderson, Caldwell, Grahn, Mayer, and Shim.

NAYS: None ABSTAINED: None

ABSENT: None

**MINUTES OF A REGULAR MEETING OF THE
UPLAND PLANNING COMMISSION**

SEPTEMBER 23, 2020

Chair Aspinall noted the Planning Commission's decision is final unless request is appealed to the City Council during the appeal period from September 24th to October 5th, 2020.

D. PUBLIC HEARING FOR CONDITIONAL USE PERMIT NO. 19-10, SITE PLAN NO. 19-07, DESIGN REVIEW NO. 19-13, AND ENVIRONMENTAL ASSESSMENT REVIEW NO. 0084.

Project Description: Request to allow a gas station, automated drive-thru car wash, a 4,565 square foot convenience store, and a 1,515 square foot quick service restaurant. The property is located within the Highway Commercial (CH) Designation of The Colonies at San Antonio Specific Plan.

Project Location: Property is located on the south side of East 20th Street, approximately 330 feet east of Campus Avenue, further described as Assessor's Parcel Number 1044-111-49.

Staff:	Mike Poland, Contract Planning Manager
Applicant:	Ash Etemadian 1138 E. 20th Street Upland, CA 91784
Recommendation:	That the Planning Commission: <ol style="list-style-type: none">1. Receive staff's presentation; and2. Open public hearing and receive testimony from the public; and3. Close public hearing and have Commission discussion; and4. Find that pursuant to the provisions of the California Environmental Quality Act (CEQA) a Final Environmental Impact Report was previously certified by the City of Upland in connection with the approval of The Colonies at San Antonio Specific Plan and that the City has determined that the Project does not trigger any of the conditions described in Sections 15162 of CEQA Guidelines which would require the preparation of a subsequent or supplemental environmental document; and5. Move to adopt a Resolution for approval of Conditional Use Permit No. 19-10, Site Plan No. 19-07, and Design Review No. 19-13, based upon the findings and subject to conditions of approval as set forth in the Resolution dated September 23, 2020.
Council Hearing Required:	The Planning Commission's decision is final unless the request is appealed to the City Council. UMC Section 17.47.040.
Appeal Period:	September 24, 2020 – October 5, 2020.

Contract Planning Manager Poland provided a presentation on the details of the report, including request, proposal, application, location, building history, project layout, site plan, architecture style and elements, floor plan options, landscaping and open space areas, The Colonies at San Antonio Specific Plan, CEQA exemptions, and staff recommendations.

Chair Aspinall clarified the project location is nearest the I-210 freeway and not the I-10 as stated in the presentation.

Chair Aspinall inquired as to the drive pattern. *Contract Planning Manager Poland* reported if a customer was entering from 20th Street, they would come through the shared driveway between the location being reviewed and the adjacent property, and proceed southbound past the canopy and gas pumps and enter the gas station at that point so there is no opportunity to stack up into 20th Street.

Commissioner Anderson inquired about a signal at the corner of 20th and Campus Avenue. *Contract Planning Manager Poland* reported when the Environmental Impact Report (EIR) was completed for The Colonies Specific Plan, East 20th Street and Campus Avenue was one (1) of 19 intersections studied and it was determined a signal was

**MINUTES OF A REGULAR MEETING OF THE
UPLAND PLANNING COMMISSION**

SEPTEMBER 23, 2020

not necessary. He also advised in 2018 a Traffic Impact Analysis (TIA) of the intersection was completed by Fehr & Peers and studied the intersection for existing uses, approved uses, uses under construction, and potential uses. He advised they considered what was already developed in addition to the potential for 71,000 square feet of additional retail state space and noted this project requires a total of 20,000 square feet. Lastly, he advised the TIA still determined the intersection would be a Level of Service B and did not warrant a traffic signal. He also advised the Public Works Director would determine if an additional City-paid TIA would be needed if the project is approved and the City would pay for the signal.

Chair Aspinall inquired what would prompt the need for a signal. *Contract Planning Manager Poland* reported the developer would not necessarily need the traffic signal and advised the City would review the traffic signal again if the Public Works Director makes the determination. He also explained citizen complaints will be directed to the City Clerk who would then distribute it to the appropriate department.

Commissioner Caldwell commented positively on the design and inquired as to the insets, landscape plan, and the type of glass on the convenience store. *Contract Planning Manager Poland* reported the clear glass would be used at the carwash. He noted the insets into the convenience store is a five-foot inset. He advised Conditions of Approval for pots or planting material can be added to the project.

Chair Aspinall inquired about the detailed landscape plan. *Contract Planning Manager Poland* reported there is a conceptual Landscape Plan for the project and the project requires a licensed California Landscape Architect to submit a Landscape Plan to staff for review and approval. He acknowledged most of the exit area from the car wash will be screened from the street with landscaping.

Commissioner Grahn requested clarification as to the location of the vacuum spaces. *Contract Planning Manager Poland* identified the vacuum spaces on the site plan and noted there needs to be two (2) spaces for every one (1) vehicle accessible in the car wash as a condition of the project.

Vice Chair Schwary inquired about a potential saturation of Alcohol sales in the area. *Contract Planning Manager Poland* reported there is no issue with Alcoholic Beverage Commission (ABC) or saturation and noted there is no sensitive land uses identified for 1.3 miles.

Commissioner Anderson inquired about fuel sales as it pertains to the Governors Order in 2035. *Contract Planning Manager Poland* reported there are no plans for electric charging stations at this location.

Commissioner Grahn inquired about the vehicle stacking in the carwash. *Contract Planning Manager Poland* advised the stacking requirement is a minimum of 120 feet from the entrance to the car wash and the first parking space is 150 feet.

Chair Aspinall opened the public hearing.

Ash Etemadian, applicant, stated he was available for questions.

Commissioner Anderson requested information about future charging stations and ARCO ownership. *Mr. Etemadian* commented that electric dispensers do not have the kind of speed available to have good throughput and would require significant conversation of existing fuel dispensers. He advised the ARCO station has reached out to Tesla to see if they are interested in placing a supercharging station on-site but have not received much feedback. He acknowledged he is part of the ownership team for ARCO and part of the development team for this site.

Vice Chair Schwary inquired as to the name of the restaurant. *Mr. Etemadian* stated he was unsure since the tenant has not been determined. He also noted they will be abiding by the Declaration of Covenants, Conditions, and Restrictions (CC&R) in the area. He advised this project and the next project to be heard will also have CC&Rs.

Commissioner Anderson suggested Miguel's Jr. and *Mr. Etemadian* advised they have been in discussion with the restaurant.

Chair Aspinall's inquired as to anticipated construction time frames. To which *Mr. Etemadian* advised if the CUP is approved, they would need three (3) to four (4) months to prepare construction drawings and go through that process with City staff. He believes construction could begin in summer 2021.

**MINUTES OF A REGULAR MEETING OF THE
UPLAND PLANNING COMMISSION**

SEPTEMBER 23, 2020

Chair Aspinall inquired whether their gas stations in close proximity would compete with each other. *Mr. Etemadian* advised when the project was proposed, a fuel study was completed and it was determined there was still a need for hundreds of thousands of gallons of fuel that needed to be sold in the area which was part of the decision making process. *Mr. Etemadian* indicated he does not anticipate an overlap and advised that studies show different brands of fuel have different customer bases.

Commissioner Anderson commented positively for the sales tax that will be generated.

Noting there were no others wishing to address the Planning Commission either in person or via telephone, *Chair Aspinall* closed the public hearing.

Vice Chair Schwary expressed support for the project.

Commissioner Caldwell expressed support especially since the condition for pots and plants will be added as a condition.

Moved by *Vice Chair Schwary* to find that pursuant to the provisions of the California Environmental Quality Act (CEQA) a Final Environmental Impact Report was previously certified by the City of Upland in connection with the approval of The Colonies at San Antonio Specific Plan and that the City has determined that the Project does not trigger any of the conditions described in Sections 15162 of CEQA Guidelines which would require the preparation of a subsequent or supplemental environmental document; and move to adopt a Resolution for approval of Conditional Use Permit No. 19-10, Site Plan No. 19-07, and Design Review No. 19-13, based upon the findings and subject to conditions of approval as set forth in the Resolution dated September 23, 2020 with the planter pots being an amendment to the Landscape Plan.

The motion was seconded by *Commissioner Anderson*.

The motion carried by the following vote (7-0):

AYES: Chair Aspinall, Vice Chair Schwary, Commissioners Anderson, Caldwell, Grahn, Mayer, and Shim.

NAYS: None ABSTAINED: None

ABSENT: None

Chair Aspinall noted the Planning Commission's decision is final unless request is appealed to the City Council during the appeal period from September 24th to October 5th, 2020.

E. PUBLIC HEARING FOR CONDITIONAL USE PERMIT NO. 19-11, SITE PLAN NO. 19-08, DESIGN REVIEW NO. 19-14, AND ENVIRONMENTAL ASSESSMENT REVIEW NO. 0085.

Project Description: Request to allow an 8,825 square foot mixed-use (retail/food) building with a single drive-thru. The property is located within the Highway Commercial (CH) Designation of The Colonies at San Antonio Specific Plan.

Project Location: Property is located on the south side of East 20th Street, approximately 550 feet east of Campus Avenue, further described as Assessor's Parcel Number 1044-111-50.

Staff:	Mike Poland, Contract Planning Manager
Applicant:	Ash Etemadian 1138 E. 20 th Street Upland, CA 91784

**MINUTES OF A REGULAR MEETING OF THE
UPLAND PLANNING COMMISSION**

SEPTEMBER 23, 2020

Recommendation:	<p>That the Planning Commission:</p> <ol style="list-style-type: none">1. Receive staff's presentation; and2. Open public hearing and receive testimony from the public; and3. Close public hearing and have Commission discussion; and4. Find that pursuant to the provisions of the California Environmental Quality Act (CEQA) a Final Environmental Impact Report was previously certified by the City of Upland in connection with the approval of The Colonies at San Antonio Specific Plan and that the City has determined that the Project does not trigger any of the conditions described in Sections 15162 of CEQA Guidelines which would require the preparation of a subsequent or supplemental environmental document; and5. Move to adopt a Resolution for approval of Conditional Use Permit No. 19-11, Site Plan No. 19-08, and Design Review No. 19-14, based upon the findings and subject to conditions of approval as set forth in the Resolution dated September 23, 2020.
Council Hearing Required:	The Planning Commission's decision is final unless the request is appealed to the City Council. UMC Section 17.47.040.
Appeal Period:	September 24, 2020 – October 5, 2020.

Contract Planning Manager Poland provided a presentation on the details of the report, including request, proposal, application, location, building history, project layout, site plan, architecture style and elements, floor plan options, landscaping and open space areas, The Colonies at San Antonio Specific Plan, CEQA exemptions, and staff recommendations.

Vice Chair Schwary requested clarification on the layout and lot line. *Contract Planning Manager Poland* referenced the drawing and advised the property line will need to move due to the setback and mentioned the applicant does not want one use to encroach into the other's property line. He advised the project has a condition that the lot line adjustment be approved administratively prior to the Grading Permit and is part of the resolution.

Chair Aspinall inquired about the shared driveways and *Contract Planning Manager Poland* explained that Planning Area 21 was designed to have shared driveways and required shared parking agreements.

Chair Aspinall opened the public hearing.

Mr. Etemadian, applicant, stated he was available for questions.

Chair Aspinall inquired about the vendors and *Mr. Etemadian*, reported there was strong interest from Starbucks for the drive-thru component.

Chair Aspinall expressed concern this location would be the only drive-thru in the area right to the freeway and noted other drive-thru areas such as In 'N Out and Chic-Fil-A are stacking up past its intended point.

Mr. Etemadian explained the current allowable distance on the site plan is well above the normal upper limits for Starbucks so stacking should not occur. He also noted benchmarking with comparable locations shows stacking has never gone beyond 160 feet even at peak.

Chair Aspinall inquired about employee parking and *Mr. Etemadian* replied employees will be required to park in a specific employee parking location. He also noted Starbucks has requested customer parking directly in front of the building.

Vice Chair Schwary asked if they have any other interest for the other spaces. *Mr. Etemadian* advised they have not gone to market for tenants and advised the brokerage firm is responsible for determining the tenant mix and feels it would likely be highway-commercial.

**MINUTES OF A REGULAR MEETING OF THE
UPLAND PLANNING COMMISSION**

SEPTEMBER 23, 2020

Commissioner Anderson's inquired about the sign plan and whether it would be similar to the Colonies. *Mr. Etemadian* anticipates signage will be the same as the southern portion of The Colonies. *Contract Planning Manager Poland* clarified signage is identified in The Colonies at San Antonio Specific Plan and there will be a uniform sign program within the shopping center.

Commissioner Shim requested clarification whether the 2nd floor space will be used for storage or additional dining and *Mr. Etemadian* advised the 2nd floor space is shell space.

Chair Aspinall inquired whether construction of the two (2) sites will be concurrent, to which *Mr. Etemadian* replied he anticipates doing construction simultaneously on both sites.

Noting there were no others wishing to address the Planning Commission either in person or via telephone, *Chair Aspinall* closed the public hearing.

Commissioner Caldwell requested concurrence from the property owner as well as staff to include pots and plants in the resolution as a condition.

Chair Aspinall inquired as to the ingress and egress of the drive-thru, *Contract Planning Manager Poland* advised the exit doors on the north side near the drive-thru are extra access and are required of multi-tenant buildings.

Moved by *Commissioner Anderson* to find that pursuant to the provisions of the California Environmental Quality Act (CEQA) a Final Environmental Impact Report was previously certified by the City of Upland in connection with the approval of The Colonies at San Antonio Specific Plan and that the City has determined that the Project does not trigger any of the conditions described in Sections 15162 of CEQA Guidelines which would require the preparation of a subsequent or supplemental environmental document; and; move to adopt a Resolution for approval of Conditional Use Permit No. 19-11, Site Plan No. 19-08, and Design Review No. 19-14, based upon the findings and subject to conditions of approval as set forth in the Resolution dated September 23, 2020 with the planter pots being an amendment to the Landscape Plan.

The motion was seconded by *Commissioner Grahn*.

The motion carried by the following vote (7-0):

AYES: Chair Aspinall, Vice Chair Schwary, Commissioners Anderson, Caldwell, Grahn, Mayer, and Shim.

NAYS: None ABSTAINED: None

ABSENT: None

Chair Aspinall noted the Planning Commission's decision is final unless request is appealed to the City Council during the appeal period from September 24th to October 5th, 2020.

**B. PUBLIC HEARING TO CONSIDER ZONING CODE AMENDMENT NO. 20-0001.
(Continued from August 12, 2020)**

Project Description: Consideration of an Ordinance revising Chapter 17.37 concerning Accessory Dwelling Units (ADU) and Junior Accessory Dwelling Units (JADU) in order to conform to the changes to Government Code Sections 65852.2 and 65852.22 that went into effect on January 1, 2020.

Project Location: Citywide.

Staff:	Robert D. Dalquest, Development Services Director
Applicant:	City of Upland

Recommendation:	<p>That the Planning Commission:</p> <ol style="list-style-type: none"> 1. Receive staff's presentation; and 2. Open public hearing and receive testimony from the public; and 3. Close public hearing and have Commission discussion; 4. Find this project statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15282(h) of the CEQA Guidelines, which states that the adoption of an ordinance regarding second units to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code are exempt from the requirements of CEQA; and 5. Move to adopt a Resolution recommending that the City Council approve an Ordinance revising the City's regulations pertaining to Accessory Dwelling Units (ADU) and Junior Accessory Dwelling Units (JADU) to conform to the revisions of Government Code Sections 65852.2 and 65852.22 that went into effect on January 1, 2020.
Council Hearing Required:	This item will be forwarded to City Council for final action.
Appeal Period:	N/A

Development Services Director Dalquest provided a presentation on the details of the report; a history of legislation regarding Accessory Dwelling Units (ADU) and Junior Accessory Dwelling Units (JADU); the Housing Element; CEQA exemptions; and staff recommendations.

Development Services Director Dalquest noted the Commission may want to consider several design provisions that are not in the draft ordinance relative to prohibiting 2nd story balconies or roof decks to reduce privacy impacts. He also noted the Commission may want to consider including in the ordinance to prohibit openings or windows on the side of an existing accessory structure with small setbacks of 3 feet or less pursuant to the Fire Code for fire safety rather than addressing them in plan check. He also addressed minor refinements to the draft ordinance on pages 2, 8, and 9.

Chair Aspinall inquired whether the property tax base change with the addition of an ADU. *Development Services Director Dalquest* reported the property is reassessed and results in an increase to their property tax base since the size is limited to 1000 square feet.

Chair Aspinall requested clarification regarding multi-family units. *Development Services Director Dalquest* explained these could be an apartment complex or a triplex. He added that non-livable space such as a storage room, boiler room, attic, or basement could be converted to an ADU granted it is no more than 25% of the number of dwelling units on that property or a minimum of one (1). Lastly, he advised properties such as apartment complexes or multi-family projects, if detached, can only have a maximum of two (2).

Chair Aspinall inquired whether these changes can be applied retroactively to existing ADUs. *Development Services Director Dalquest* clarified that property owners with existing ADUs who are not in compliance are considered legal non-conforming and have time to come into compliance. *Deputy City Attorney Shah* does not believe this would come up in many scenarios because the direction of the law is to allow more rather than less. *Development Services Director Dalquest* advised that most approved ADUs have a current setback of 5-feet and would be in compliance with the state's new 4-foot setback requirement. Lastly, he noted there may be situations with 1200 square-foot ADUs since it is currently limited to 1000 square feet but it would be considered legal non-conforming.

Commissioner Grahn inquired whether property owners with existing covenants would be enforceable. *Development Services Director Dalquest* advised property owners can come back to have them modified so it is consistent with the law since the rules have changed. He noted some covenants that require owner occupancy and they would have come back to modify their CC&Rs since the state ordinance is used and the local ordinance does not allow the City to require that.

**MINUTES OF A REGULAR MEETING OF THE
UPLAND PLANNING COMMISSION**

SEPTEMBER 23, 2020

Chair Aspinall requested an example of a non-conforming situation where someone may request a conditional use permit. *Development Services Director Dalquest* advised if a property does not meet any of the development standards in the code, the ordinance does allow for the property owner to apply for a CUP to be considered by the Planning Commission. He advised staff will administratively try to get property owners to comply with the code but if they are persistent they have the right to apply for a CUP to be considered before the Planning Commission. However, he feels most will comply with the code since the CUP requires paying a non-refundable fee, and an approval is not guaranteed. Lastly, he advised state law does not circumvent the City from granting CUPs in areas where the City has discretion.

Vice Chair Schwary inquired as to whether state law could circumvent the City from granting a CUP. *Development Services Director Dalquest* confirmed the state currently has legislative controls over ADUs and JDUs, the City could set up local zoning guidelines that would be within the state's guidelines, and property owners can circumvent the guidelines should they want to pay and apply for a CUP to be considered before the Planning Commission. He noted the state has eroded local control over this type of land use and indicated there are few areas where the City has discretion.

Vice Chair Schwary recommends the Planning Commission focus on the areas the state has no jurisdiction over as the recommendation to City Council. *Development Services Director Dalquest* advised the Zoning Amendment will need to be reviewed by the California Department of Housing and Community Development (HCD) to confirm compliance with state law. He noted if the City is not in compliance there will be a period in which to amend the ordinance. Lastly, he anticipates more legislative changes to ADU law in the future.

Chair Aspinall inquired about rents needing to be reported back to the City and whether the owner will need to pay an additional tax. *Development Services Director Dalquest* reported ADUs to some extent will help the City with its Regional Housing Needs Allocation (RHNA) numbers when providing an update on the Annual Progress Report. He explained with the ordinance, the rents reported can help the City meet the very low, low moderate, or above-moderate units required in the RHNA.

Commissioner Mayer requested clarification on the rent information being reported to the City and whether the all ADUs are classified as low income housing. *Development Services Director Dalquest* clarified that each property owner with an ADU will be required to report rents to the City to include those numbers with the HCD Annual Progress report on April 1st and indicated the City will not have control over the amount people charge. He explained ADUs are not automatically designated as low-income housing but get their designation through the rent amount. *Deputy City Attorney Shah* believes more guidance will come from the HCD on how to utilize ADUs to meet the City's RHNA numbers and this would be an effort to become more precise.

Commissioner Anderson requested clarification as to what HCD stands for, to which *Development Services Director Dalquest* clarified HCD stands for the California Department of Housing and Community Development.

Commissioner Anderson inquired about converting garages into an ADU and replacement parking requirements. *Development Services Director Dalquest* clarified the City cannot require replacement parking when a garage or carport is converted to an ADU.

Chair Aspinall inquired about future parking problems, *Development Services Director Dalquest* reported ADUs were limited to 1000 square feet maximum with no more than two (2) bedrooms to try to mitigate parking.

Commissioner Anderson commented the HCD seems to not be interested in parking. *Development Services Director Dalquest* reported the City must abide by the state legislation.

Vice Chair Schwary commented a workshop will be important for public outreach. *Chair Aspinall* inquired when the workshop would occur. *Development Services Director Dalquest* reported the City was not planning on having a workshop because this is being considered in a public hearing. He advised if approved there will be public outreach to promote the ADUs. He also advised the City received an SB 2 grant for \$310,000 to accelerate housing and will include a comprehensive ADU handbook which will be promoted through community outreach.

Chair Aspinall reminded the Planning Commission and the public this is not the final decision on this item and only a recommendation to the City Council where there will be another Public Hearing.

**MINUTES OF A REGULAR MEETING OF THE
UPLAND PLANNING COMMISSION**

SEPTEMBER 23, 2020

Chair Aspinall requested more information regarding the City's discretion about 3 feet versus 4 feet setback, *Development Services Director Dalquest* clarified that if an existing accessory structure such as a garage is being converted into an ADU and faces an adjacent property side less than three feet, there cannot be openings from a fire safety perspective.

Commissioner Anderson requested clarification on the motion relative to the changes made to the draft ordinance, *Development Services Director Dalquest* clarified the Planning Commission's recommendations will be forwarded to the City Council.

Chair Aspinall opened the public hearing.

Tauvaga HoChing expressed concern regarding state regulation and erosion of local control with ADUs. He thanked the Planning Commission for their excellent work.

Kirk Swanner expressed concern regarding the housing affordability crisis in California and expressed support for ADUs.

Noting there were no others wishing to address the Planning Commission either in person or via telephone, *Chair Aspinall* closed the public hearing.

Commissioner Caldwell commended *Development Services Director Dalquest* for the very comprehensive ordinance. She expressed support for the ordinance and supports the additional design considerations.

In response to *Chair Aspinall's* inquiry, *Development Services Director Dalquest* clarified an ADU cannot be higher than the primary dwelling unit.

Commissioner Mayer commended *Development Services Director Dalquest* for his interpretation of State Law and what is good for Upland. He also expressed support for requiring owner-occupancy for JADUs and the 1000 square foot maximum on ADUs. He commented he constructs ADUs in his professional career and he noted his customers are very interested in making ADUs efficient and want to receive prime rent on their investment therefore they are more likely to provide parking or a garage.

In response to *Vice Chair Schwary's* inquiries, *Development Services Director Dalquest* confirmed ADUs cannot be Short-Term Rentals.

Commissioner Mayer expressed support for prohibiting rooftop decks and second levels that overlook adjacent properties. He suggested requiring existing windows that are within appropriate setbacks need to be obscured glass but feels the Building Code will address the issue.

Moved by *Vice Chair Schwary's* to find this project statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15282(h) of the CEQA Guidelines, which states that the adoption of an ordinance regarding second units to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code are exempt from the requirements of CEQA; and move to adopt a Resolution recommending that the City Council approve an Ordinance revising the City's regulations pertaining to Accessory Dwelling Units (ADU) and Junior Accessory Dwelling Units (JADU) to conform to the revisions of Government Code Sections 65852.2 and 65852.22 that went into effect on January 1, 2020, prohibit any kind of balconies or second story decks on attached ADUs to reduce privacy impact, and consider prohibiting roof deck above single story ADUs to reduce private impact.

The motion was seconded by *Commissioner Anderson*.

The motion carried by the following vote: (7-0):

AYES: Chair Aspinall, Vice Chair Schwary, Commissioners Anderson, Caldwell, Grahn, Mayer, and Shim.

NAYS: None ABSTAINED: None

ABSENT: None

**MINUTES OF A REGULAR MEETING OF THE
UPLAND PLANNING COMMISSION**

SEPTEMBER 23, 2020

Chair Aspinall noted the Planning Commission's decision is a recommendation to the City Council and is not appealable.

BUSINESS ITEMS

None

COMMISSION COMMUNICATION

Commissioner Anderson reported she has lived for the last four-months in an ADU on her son's property.

ADJOURNMENT

There being no further business to come before the Planning Commission, *Chair Aspinall* adjourned the meeting at 8:40 P.M., to the regular meeting of the Planning Commission on October 28, 2020, at 6:30 P.M.

Respectfully submitted,



Robert D. Dalquest, Secretary
Upland Planning Commission